

**STATEMENT OF
DENNY BSCHOR, DIRECTOR
RECREATION, HERITAGE, AND WILDERNESS RESOURCES**

**FOREST SERVICE
UNITED STATES DEPARTMENT OF AGRICULTURE**

**Before the
U.S. Senate Committee on Energy and Natural Resources
Subcommittee on Forests and Public Lands Management**

June 23, 1999

Thank you for your invitation to testify on S. 953, the "Terry Peak Land Conveyance Act of 1999", S. 1088, the "Arizona National Forest Improvement Act of 1999", and S. 503, the "Spanish Peaks Wilderness Act of 1999".

S. 953, "Terry Peak Land Transfer Act of 1999"

The Administration supports S. 953 because, 1) this conveyance will reduce significant administrative duties and costs for a 40 acre parcel of National Forest land within the Terry Peak Ski Area and, 2) the Forest Service will receive fair market value compensation for this land.

Ski area facilities authorized under a special use permit are located on this parcel, which private lands border on three sides. Instead of retaining the parcel, the public would be better served by using the fair market value of this land to acquire private inholdings from willing sellers to add to the Black Hills National Forest.

Conveyance of the 40 acre parcel, which is less than 10% of the ski area, would eliminate Forest Service costs of administering a special use permit for the ski area facilities located on this land. Compensation for this land would be considered monies received and deposited pursuant to the Sisk Act and the Forest Service would use them to acquire private inholdings from willing sellers within the Black Hills National Forest for public use and enjoyment.

The Forest Service, however, recommends a technical amendment to Section 4 (e) to clarify that the proceeds from the sale of the 40 acres be available without further appropriation for the acquisition of lands or interests in lands from willing sellers for addition to the Forest.

S. 1088, the Arizona National Forest Improvement Act of 1999

The Administration supports S. 1088, the "Arizona National Forest Improvement Act of 1999". This legislation would allow for the sale or exchange of administrative sites on national forests in the State of Arizona. The bill would allow for the consolidation of existing administrative sites, or the acquisition or construction of new administrative sites.

The legislation also allows the Forest Service to convey approximately 300 acres to the City of Sedona for a wastewater treatment facility. The conveyance would be at fair market value, paid in installments with interest, over seven years. This legislation allows the Forest Service to assist the local community in their efforts to provide a wastewater treatment facility, while obtaining a fair return to the taxpayers for the disposal of national forest land.

S. 503, Spanish Peaks Wilderness Act of 1999

The Administration would support S. 503, which designates the Spanish Peaks Wilderness within the San Isabel National Forest in the State of Colorado, if it were amended to contain the Bullseye Mine road within the boundary of the wilderness. The Administration objects to the exclusion of the road, which is actually more like a trail, from the wilderness for reasons which I will discuss shortly.

The Spanish Peaks area is a worthy addition to the National Wilderness Preservation System (Wilderness System). The Spanish Peaks are the easternmost peaks of the Rocky Mountains and the 13,626 foot summit of West Spanish Peak is a prominent landmark visible across the high plains for many miles. The peaks were added to the National Registry of Natural Landmarks in 1977. Their unique location, geology, and significant elevation gradient provide singular habitats for plant and animal communities. Water rights, which have often been at issue in Colorado wilderness debates, should not present a problem, as the Spanish Peaks are located in a headwaters area while the water users are located downstream and outside of the area to be designated.

The Spanish Peaks have long been the subject of considerable interest for their potential inclusion in the Wilderness System. The Endangered American Wilderness Act of 1978 (P.L. 96-560) directed the Secretary of Agriculture to review the Spanish Peaks Wilderness Study Area and report recommendations for suitability of the area for inclusion in the Wilderness System. The Forest Service evaluated the suitability of the area for wilderness as part of the forest planning process and did not recommend wilderness designation for the area, due to the numerous private property interests within the area.

The Colorado Wilderness Act of 1993 (P.L. 103-77) created the Spanish Peaks Planning Area and directed the Forest Service to study the area and report to Congress concerning the status of private property interests within the area. The Congress further directed the agency to expedite this study in the 1994 interior appropriations bill. The Forest Service completed this study and forwarded it to the Congress in 1995.

Significant private property interests including private land, patented and unpatented mining claims, and oil and gas leases within the study area boundaries have been of greatest concern regarding the suitability of the area as wilderness. There were 825 acres in 7 separate inholdings within the 20,000 acre study area in 1995, which caused concern that the area could not be successfully administered as wilderness. In testimony before the 103rd and 105th Congresses addressing the Spanish Peaks area, the Forest Service highlighted concerns about its ability to preserve wilderness values because of the significant amount of private property within the wilderness.

We wish to express our appreciation to the Colorado delegation and to the Congress for their willingness to see the issues resolved before going ahead with wilderness designation. As we have often found, resolving such issues after designation is problematic.

Since the 1995 study, the Forest Service has made the acquisition of lands within this area a high priority, and the Wilderness Land Trust has acquired some of the inholdings which will eventually be turned over to the Forest Service, but 110 interior acres still remain in private ownership. Because of their location, they cannot be excluded from the wilderness by adjusting the boundaries, so they will remain as inholdings unless the Forest Service acquires them.

Bullseye Mine Road

S. 503 would exclude the Bullseye Mine road from the wilderness area. The Forest Service is concerned about the future management of this road and cannot support its exclusion from the wilderness area.

This road provides access to mining claims. Historically, the road has been limited to foot traffic and pack-animal travel, and this use would not be precluded by wilderness designation. The road is currently managed as a non-forest system road and is closed to motorized traffic. The forest does not anticipate changing this management direction. Whether the road is included in the area designated as wilderness, the Forest Service does not anticipate opening this road to motorized use because they would severely degrade the wilderness values of the area, in addition to causing many other problems.

The reasons for the current management are:

- A concern for public health and safety - The road is very steep and narrow which does not lend itself to being an enjoyable, drivable road for the majority of the recreating public.
- Erosion and water quality - For the most part, the road traverses above and in-line with a live drainage coming off the West Peak. Maintenance of the road would increase the sedimentation reaching the drainage.
- Road maintenance - It would be costly and difficult to maintain such a road at the expense of others which receive much higher use by the general public.

However, should the owners of the Bullseye Mine request access to their patented claim, access would be governed by section 1323(a) of the Alaska National Interest Lands Conservation Act (ANILCA) and section 7 of the Colorado Wilderness Act of 1993.

The Administration would strongly recommend an amendment authorizing the Secretary to adjust the wilderness boundary to include the Bullseye Mine road. We also recommend deleting section 3 of the bill, relating to access within the wilderness area, because this provision is unnecessary and raises concerns about whether section 1323(a) of ANILCA would govern access to private inholdings within the wilderness area.

The Forest Service looks forward to working with the Committee and Senator Allard on the inclusion of this beautiful area in our national wilderness preservation system.

Closing

Mr. Chairman, the Administration supports S. 953, "Terry Peak Land Conveyance Act of 1999", but recommends one technical amendment, and supports S. 1088, the "Arizona National Forest Improvement Act of 1999". The Administration would support S. 503, the "Spanish Peaks Wilderness Act of 1999" if amended to adjust the wilderness boundary to include the Bullseye Mine road.

This concludes my statement, I would be happy to answer any questions you and the Members of the Subcommittee might have.